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(5)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P. No. 3968 /04

Anand Kumar Chaubey,
S/o Late Shri S. P. Chaubey,
Aged about 44years,
Working as copyist,
Working in Chirpani Head Work
Sub Dn. No.1, (Irrigation Deptt.)
BODLA, The.& Dist. Kawardha. ....

Petitioner

Versus :

1. State of Chhattisgarh.
Through secretary.
Irrigation Deptt.,
D.K.S. Bhavan,
RAIPUR (C.G.)

2. Chief Engineer,
Mahanadi Godavari Basin,
Water Resources deptt.,
(Irrigation deptt.)
Shankar Nagar,
RAIPUR.

3. Executive Engineer,
Chirpani Project,
(Irrigation Deptt.),
Kawardha.

4. K.L.Lonia
Lower Division Clerk
Working in the office of
Executive Engineer
Water Resources Division
Irrigation Deptt.
Kawardha

... **Respondents**

P.R. No. 3966/04
Presented by Shri Sandeep Purvedi
dated 12/10/04

WRIT PETITION UNDER . ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR GRANT OF WRIT OF. MANDAMUS , CERTIORARY OR DIRECTION OF LIKE NATURE.

(159)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 3968 of 2004

Petitioner : Anand Kumar Chaubey

Versus

Respondents : The State of Chhattisgarh & others

Mr. N.K. Vyas, counsel for the petitioner.
Shri Anupam Dubey, Panel lawyer for the respondents/State.

O R D E R

(Passed on 2nd day of January, 2007)

1. Learned counsel appearing for the petitioner submits that the petitioner was appointed on 4.4.1984 (Annexure P/1) on the post of Copyist/Asst. Sub Divisional Clerk on daily wages basis in the office of the Sub-Divisional Officer, Chhirpani Canal Sub-Division No. 1 at Badla, Tahsil Kawardha. Services of the petitioner was terminated by oral order dated 5.7.1986 without affording any opportunity of hearing.

2. Being aggrieved, the petitioner filed an application before the Labour Court at Durg in Case No. 3/88 I.D. {Ref.}. The Labour Court, by order dated 19.7.1995 (Annexure P/2), directed reinstatement of the petitioner to the service with 50% back wages.

3. Against the order dated 19.7.1995 (Annexure P/2) passed by the Labour Court, the State/respondents filed a writ petition, being W. P. No. 108/97, before the High Court of Madhya Pradesh at Jabalpur. The High Court of Madhya Pradesh at Jabalpour, vide order dated 21.4.1997

(Annexure P/3), confirmed the order of reinstatement and set aside the order of 50% back wages.

4. The petitioner has filed this petition seeking regularization w.e.f. 29.3.90 i.e. from the date of his colleagues' services have been regularized with all consequential benefits after adding due increment, pay fixation and all other monetary benefits payable to regular employee of his category.

2. It is well settled principle of law that the daily wagers, temporary or ad hoc employees have no right to the post seeking regularization and grant of regular pay scale, if their appointments were de-hors the constitutional scheme or the rules made under the proviso to Article 309 of the Constitution of India. The petitioner has no right to continue/regularize or reinstate on the post in view of catena of decisions laid down by the Supreme Court.

3. The writ petition is accordingly dismissed.

4. The respondents/State, in their return at para 8, has submitted that the Chief Engineer, Mahanadi Godawari Kachhar, Raipur has passed an order of regularization of daily wages employees. The case of the petitioner would be considered for regularization as and when vacancy is available. In view of the statement made by the respondents/State, the petitioner may be considered for regularization, if any, on its own. The order of dismissal of the petition shall not come in the way of the respondents/State while considering his case for regularization.

Bablu

Sd/-
Satish K. Agnihotri
Judge